

**Remarks**

Claims 21-39 are currently pending in the present Application. Claim 39 has been added by way of the present amendment. New claim 39 finds support throughout the specification of the present Application, for example, Examples 4 and 6, Figure 1, and the Sequence Listing. As such, no new matter enters by way of the present amendment.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to Arnold and Porter's Deposit Account No. 50-2387, referencing matter number 16515.102.

**A. Request Under 37 C.F.R. § 1.607 for interference with U.S. Patent No. 6,303,365 B1**

As reflected in the chart below, newly added claim 39 is identical to at least claim 1 found in issued U.S. Patent No. 6,303,365 B1.<sup>1</sup> As such, applicants seek to have an interference declared between this application and U.S. Patent No. 6,303,365 B1. With Reference to 37 C.F.R. § 1.607(c), claim 39 of the present Application is identical to claim 1 of U.S. Patent No. 6,303,365 B1 as follows:

U.S. Patent 6,303,365 B1	Application No. 09/987,025
1. An isolated DNA comprising a nucleic acid which encodes an <i>Arabidopsis</i> 1-deoxy-D-xylulose-5-phosphate reductoisomerase that has the amino acid sequence of SEQ ID NO: 6.	39. An isolated DNA comprising a nucleic acid which encodes an <i>Arabidopsis</i> 1-deoxy-D-xylulose-5-phosphate reductoisomerase that has the amino acid sequence of SEQ ID NO: 2.

**B. Re: Interference Requested With U.S. Patent No. 6,303,365 B1**

- Pursuant to 37 C.F.R. § 1.607(a)(1), the patent with which Applicants seek to have an interference is U.S. Patent No. 6,303,365 B1.
- Pursuant to 37 C.F.R. § 1.607(a)(2), the count proposed for the interference is:  
An isolated DNA according to claim 1 of U.S. Patent No. 6,303,365 B1

or

An isolated nucleic acid molecule according to claim 39 of the present Application [Application No. 09/987,025].

- **Pursuant to 37 C.F.R. § 1.607(a)(3)**, claim 1 of U.S. Patent No. 6,303,365 B1 is identified as at least one claim in the patent corresponding to the proposed count.
- **Pursuant to 37 C.F.R. § 1.607(a)(4)**, claim 39 of the present Application [Application No. 09/987,025] is identified as at least one claim in the pending application corresponding to the proposed count.
- **Pursuant to 37 C.F.R. § 1.607(a)(5)**, the terms of the claim are applied to the disclosure of the present Application [Application No. 09/987,025] as follows:

Claim	Disclosure
39. An isolated DNA comprising a nucleic acid which encodes an <i>Arabidopsis</i> 1-deoxy-D-xylulose-5-phosphate reductoisomerase that has the amino acid sequence of SEQ ID NO: 2	<b>Page 27, Example 4</b> – “Cloning of a 1-deoxy-D-xylulose 5-phosphate reductoisomerase cDNA from <i>Arabidopsis thaliana</i> . . . The deduced amino acid sequence form the <i>Arabidopsis</i> dxr nucleic acid sequence (SEQ ID NO:1) is provided in SEQ ID NO:2. . . The cloned cDNA encodes a protein of 477 amino acid residues with a predicted molecule mass of 52 kDa.”

- **With reference to 37 C.F.R. § 1.607(a)(6)**, the claim of the present Application designated above as corresponding to the proposed count have been submitted less than one year after issuance of U.S. Patent 6,303,365 B1.
- **With reference to 37 C.F.R. § 1.607(b)**, though not identically worded to the designated claim in the patent<sup>2</sup>, the claim of the present Application designated above is for the same

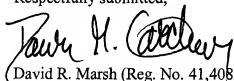
<sup>1</sup> Claim 39 of the present Application is identical to claim 1 of U.S. Patent No. 6,303,365 B1 except for a reference to SEQ ID NO: 2 rather than SEQ ID NO: 6. However, SEQ ID NO: 2 of the present Application and SEQ ID NO: 6 of U.S. Patent No. 6,303,365 B1 disclose identical amino acid sequences. As such, claim 1 of U.S. Patent No. 6,303,365 B1 and claim 39 of the present Application are identical.

<sup>2</sup> See FN1 *supra*.

patentable invention within the purview of 37 C.F.R. § 1.606(n). One of ordinary skill in the art would recognize that the claimed nucleic acid sequences encode amino acids that are identical, and that such amino acids are 1-deoxy-D-xylulose 5-phosphate reductoisomerases obtainable from *Arabidopsis*.

Prompt and favorable consideration of this Amendment and Request for Interference is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Dawn M. Gardner", is written over the printed name.

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